

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:)
)
CYNTHIA FOSTER BROWNING,) Bk. No. **15-09120-CW3-13**
) Chapter 13
Debtor(s).) Judge Charles M. Walker

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: October 5, 2018
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: October 17, 2018 at 8:30 a.m. in
Courtroom 1, 2nd Floor Customs House, 701 Broadway, Nashville, Tennessee 37203

TRUSTEE'S OBJECTION TO MOTION TO UTILIZE INSURANCE
PROCEEDS TO PAY SECURED CLAIM AND REQUIRE RELEASE OF LIEN

Henry E. Hildebrand, III, Standing Trustee for Chapter 13 matters in the Middle District of Tennessee, by and through his counsel, respectfully objects to the debtor's Motion to Utilize Insurance Proceeds to pay secured claim and require release of lien on the basis that the motion also modifies the debtor's Chapter 13 plan and allows the debtor to incur debt.

The debtor's motion is styled and filed as "Motion to Utilize Insurance Proceeds to Pay Secured Claim and Require Release of Lien." The Trustee does not oppose the insurance proceeds from Allstate Auto Insurance paying the claim of Insolve Auto Funding or the release of lien by Insolve once the insurance proceeds are received. The debtor's motion, however, also modifies the debtor's Chapter 13 plan to reduce the amount of the debtor's plan payment to the Trustee. Finally, the motion grants the debtor permission to incur post-petition debt to purchase a replacement vehicle and for the debtor to be the disbursing agent with respect to payments on the replacement vehicle. The fact that the proposed plan modification and the request to incur debt are not set forth in the motion until Paragraphs 5 and 6, the Trustee questions whether notice of the debtor's proposed plan modification and request to incur post-petition debt is adequate.

WHEREFORE, THE PREMISES CONSIDERED, the Trustee objects to the debtor's Motion to Utilize Insurance Proceeds to Pay Secured Claim and Require Release of Lien and requests a hearing thereon.

Respectfully submitted,

/s/ Tracy L. Schweitzer

Tracy L. Schweitzer
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee
P. O. Box 340019
Nashville, TN 37203-0019
615-244-1101; Fax 615-242-3241
www.ch13nsh.com
pleadings@ch13nsh.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certifies that on or before the 4th day of October, 2018, a true and correct copy of the foregoing has been served in the following manner:

Email by Electronic Case Noticing to:

U. S. Trustee
Rothschild & Ausbrooks, Counsel for Debtor

By U. S. Postal Service, postage prepaid to:

Cynthia F. Browning, 3518 Whitebud Lane, Murfreesboro, TN 37128
Insolve Auto Funding, c/o Capital Recovery Group, Dept. 3403, P. O. Box 123403, Dallas, TX 75312-3403

/s/ Tracy L. Schweitzer

Tracy L. Schweitzer
Counsel to Henry E. Hildebrand, III
Chapter 13 Trustee